

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America, <p style="text-align: center;">Plaintiff,</p> v. Michael Eugene Hunter (2), <p style="text-align: center;">Defendant.</p>	Case No. 20-CR-136 (WMW/HB) <p style="text-align: center;">ORDER</p>
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HILDY BOWBEER, United States Magistrate Judge

This case is before the undersigned on the United States' Motion for Discovery [Doc. No. 28] and the non-dispositive pre-trial motions filed by Defendant Michael Hunter [Doc. Nos. 35, 37, 38, 39, 40, 42, 43].¹ The case was referred for resolution of pretrial matters pursuant to 28 U.S.C. § 636 and District of Minnesota Local Rule 72.1. The Court held a hearing on Thursday, October 15, 2020, at which point the Court took the non-dispositive motions under advisement.² [Doc. No. 64.] The Court finds those motions appropriate for summary disposition and will resolve them accordingly.

Therefore, based on all the files, records, and proceedings herein, **IT IS HEREBY**

¹ During the hearing Defendant withdrew as moot two additional non-dispositive motions: Defendant's Motion to Disclose Post-Conspiracy Statements of Alleged Co-Conspirators [Doc. No. 36] and Motion for Pretrial Determination of the Admissibility of Co-Conspirator's Statements [Doc. No. 44]. (*See* Oct. 15, 2020 Minute Entry [Doc. No. 64].) Accordingly, the Court will not address those motions in this Order.

² Defendant's dispositive motion [Doc. No. 41] is subject to a post-hearing briefing schedule. It will be taken under advisement on October 23, 2020. The undersigned will issue a Report and Recommendation in due course.

ORDERED that:

1. The Government’s Motion for Discovery [Doc. No. 28] is **GRANTED** to the extent the Government seeks discovery consistent with the Federal Rules of Criminal Procedure 16(b), 12.1, 12.2, 12.3, and 26.2.
2. Defendant’s Pretrial Motions for Pretrial Disclosure of Rule 404(b) Evidence [Doc. No. 35] is **GRANTED** to the extent the motion seeks disclosure of information that is within the scope of Rule 404(b).
3. Defendant’s Motion for Early Disclosures of Jencks Act Materials [Doc. No. 37] is **DENIED**. *See United States v. White*, 750 F.2d 726, 729 (8th Cir. 1984) (“Although in many cases the government freely discloses Jencks Act material to the defense in advance of trial, the government may not be required to do so.”).
4. Defendant’s Motion for Disclosure of Government Witnesses [Doc. No. 38] is **DENIED**. The Government is not required to disclose its witnesses prior to trial. *United States v. Miller*, 698 F.3d 699, 704 (8th Cir. 2012); *United States v. Altman*, 507 F.3d 678, 680 (8th Cir. 2007); *see also United State v. Ranallo*, Case No. 18-CR-285 (JNE/TNL), 2019 WL 6975447, at *4 (D. Minn. Dec. 20, 2019) (“Moreover, Rule 404(b) does not require that the Government disclose directly or indirectly the names and addresses of its witnesses, something it is currently not required to do under Fed. R. Crim. P. 16.”) (quotations omitted). The Government represents that it does not yet know which witnesses it intends to call at trial, but will provide a potential witness list and information about any witness’s criminal record immediately before trial.

5. Defendant's Motion for Government Agents to Retain Rough Notes [Doc. No. 39] is **GRANTED** as to retention and preservation only.
6. Defendant's Motion for Disclosure of Intention to Introduce Evidence of Other Crimes, Wrongs, or Acts of Defendant [Doc. No. 40] is **GRANTED** to the extent the motion seeks disclosure of information that is within the scope of Rule 404(b).
7. Defendant's Motion for Counsel's Participation in Voir Dire [Doc. No. 42] **DENIED without prejudice** as a trial motion that should be made to and decided by the Honorable Wilhelmina M. Wright, United States District Judge.
8. Defendant's Motion to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant [Doc. No. 43] is **GRANTED** to the extent Defendant seeks disclosure of favorable evidence pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny.

Dated: October 16, 2020

s/ Hildy Bowbeer

HILDY BOWBEER

United States Magistrate Judge